

**DECLARATION - USA PATENT APPLICATION**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name;

I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled ; the specification of which was filed on **September 9, 2003** as Application Serial No. **10/658,736** and was amended on **January 8, 2004**.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above;

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56;

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below, and insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56, which became available between the filing date of the prior application and the national or PCT international filing date of this application:

Prior U.S.A. Application

Aplicaition No. <b>PCT/US02/28106</b>	Filing Date: <b>September 9, 2002</b>	Status: <b>Pending</b>
Application No. <b>10/280,489</b>	Filing Date: <b>October 25, 2002</b>	Status: <b>Pending</b>

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or any patent issued thereon.

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Full name of first inventor: **Alan Shluzas**

Inventor's signature *Alan Shluzas*

Date *1/12/2004*

Residence: **84 Acorn Street, Millis, MA 02054**

Citizenship: **United States**

Post Office Address: **Same**

Full name of second inventor: **James Pagliuca**

Inventor's signature James Pagliuca

Date 1/16/04

Residence: **184 Village Street, Millis, MA 02054**

Citizenship: **United States**

Post Office Address: **Same**

Full name of third inventor: **John D. Unger**

Inventor's signature John D. Unger

Date 1/12/04

Residence: **20 Farm Hill Road, Wrentham, MA 02093**

Citizenship: **United States**

Post Office Address: **Same**

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Send Correspondence To:  
KNOBBE, MARTENS, OLSON & BEAR, LLP  
Customer No. 20,995



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Shluzas, et al. )  
)  
App. No. : 10/658,736 )  
)  
Filed : September 9, 2003 )  
)  
For : METHODS AND APPARATUSES )  
FOR TREATING THE SPINE )  
THROUGH AN ACCESS DEVICE )  
)  
Examiner : Unknown )  
)

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ESTABLISHMENT OF RIGHT OF ASSIGNEE TO TAKE ACTION  
AND  
REVOCATION AND POWER OF ATTORNEY

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

The undersigned is empowered to act on behalf of the assignee below (the "Assignee"). A true copy of the original Assignment of the above-captioned application from the inventor(s) to the Assignee is attached hereto. This Assignment represents the entire chain of title of this invention from the Inventor(s) to the Assignee.

I declare that all statements made herein are true, and that all statements made upon information and belief are believed to be true, and further, that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that willful, false statements may jeopardize the validity of the application, or any patent issuing thereon.

The undersigned hereby revokes any previous powers of attorney in the subject application, and hereby appoints the registrants of Knobbe, Martens, Olson & Bear, LLP, 2040 Main Street, Fourteenth Floor, Irvine, California 92614, Telephone (949) 760-0404, **Customer**

**App: No.** : 10/658,736  
**Filed** : September 9, 2003

**No. 20,995**, as its attorneys with full power of substitution and revocation to prosecute this application and to transact all business in the U.S. Patent and Trademark Office connected herewith. This appointment is to be to the exclusion of the inventor(s) and his attorney(s) in accordance with the provisions of 37 C.F.R. § 3.71.

Please use **Customer No. 20,995** for all communications.

Endius, Inc.

Dated: 1/20/04  
Gene DiPoto <sup>GPD</sup> <sub>1/20/04</sub> By: Gene DiPoto  
Gene DiPoto

Title: V.P., Engineering

Address: 23 West Bacon Street  
Plainville, MA 02762

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Application No.: 10/658,736  
Filing Date: September 9, 2003

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PATENT  
Client Code: ENDIUS.26CPCP2  
Page 1

ASSIGNMENT

DO NOT RECORD

WHEREAS, We, Alan Shluzas, a United States citizen, residing at 84 Acorn Street, Millis, MA 02054, James Pagliuca, a United States citizen, residing at 184 Village Street, Millis, MA 02054 and John D. Unger, a United States citizen, residing at 20 Farm Hill Road, Wrentham, MA 02093, have invented certain new and useful improvements in a METHODS AND APPARATUSES FOR TREATING THE SPINE THROUGH AN ACCESS DEVICE for which we have filed an application for Letters Patent in the United States, Application No. 10/658,736, Filed on September 9, 2003;

AND WHEREAS, Endius, Inc. (hereinafter "ASSIGNEE"), a Massachusetts Corporation, with its principal place of business at 23 West Bacon Street, Plainville, MA 02762, desires to acquire the entire right, title, and interest in and to the said improvements and the said Application:

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) to me in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, we, the said inventors, do hereby acknowledge that we have sold, assigned, transferred and set over, and by these presents do hereby sell, assign, transfer and set over, unto the said ASSIGNEE, its successors, legal representatives and assigns, the entire right, title, and interest throughout the world in, to and under the said improvements, and the said application and all provisional applications relating thereto, and all divisions, renewals and continuations thereof, and all Letters Patent of the United States which may be granted thereon and all reissues and extensions thereof, and all rights of priority under International Conventions and applications for Letters Patent which may hereafter be filed for said improvements in any country or countries foreign to the United States, and all Letters Patent which may be granted for said improvements in any country or countries foreign to the United States and all extensions, renewals and reissues thereof; and we hereby authorize and request the Commissioner of Patents of the United States, and any Official of any country or countries foreign to the United States, whose duty it is to issue patents on applications as aforesaid, to issue all Letters Patent for said improvements to the said ASSIGNEE, its successors, legal representatives and assigns, in accordance with the terms of this instrument.

AND WE HEREBY covenant and agree that we will communicate to the said ASSIGNEE, its successors, legal representatives and assigns, any facts known to us respecting said improvements, and testify in any legal proceeding, sign all lawful papers, execute all divisional, continuing and reissue applications, make all rightful oaths and generally do everything possible to aid the said ASSIGNEE, its successors, legal representatives and assigns, to obtain and enforce proper patent protection for said improvements in all countries.

IN TESTIMONY WHEREOF, I hereunto set my hand and seal this 20 day of January, 2004.

Alan Shluzas  
Alan Shluzas

STATE OF Massachusetts }  
COUNTY OF Norfolk } ss. 015-68-8369

On Jan 20, 2004, before me, Patricia E. Hamel, personally appeared Alan Shluzas personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity(ies), and that by his signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL]

COPY

Patricia E. Hamel  
Notary Signature

IN TESTIMONY WHEREOF, I hereunto set my hand and seal this 20 day of January, 2004.

STATE OF Massachusetts

COUNTY OF Norfolk

ss. 016-36-3450

COPY

On Jan 20, 2004, before me, Patricia E. Hamel, personally appeared James Pagliuca personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity(ies), and that by his signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL]

Patricia E. Hamel  
Notary Signature

IN TESTIMONY WHEREOF, I hereunto set my hand and seal this 20th day of January, 2004

STATE OF Massachusetts

COUNTY OF Norfolk

ss. 013-60-5635

COPY

On Jan 20, 2004, before me, Patricia E. Hamel, personally appeared John D. Unger personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity(ies), and that by his signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL]

Patricia E. Hamel  
Notary Signature

IN TESTIMONY WHEREOF, I hereunto set my hand and seal this 20th day of January, 2004

COPY